REMARKS

Claims 1-8, 10-16 and 20-23 are pending in this application, and in the Office Action, the Examiner rejected all of these claims under 35 U.S.C. §102 as being fully anticipated by U.S. Patent 6,226,618 (Downs, et al.).

For the reasons discussed below, the rejection of the claims is respectfully traversed. The Examiner is thus asked to reconsider and to withdraw the rejection of Claims 1-8, 10-16 and 20-23, and to allow these claims. Also, Applicants request that Claims 1, 2, 3, 10 and 13 be amended to better define the subject matters of these claims.

The present invention, generally, relates to a system and method for charging users for copying or using digital data. In a preferred embodiment, a server machine generates content that is subsequently delivered to a client machine. The server machine also writes charging data into an IC card that is provided to a user. The client machine uses the content, and, at the same time, the IC card is used to pay for that use.

Downs, et al. discloses an electronic content delivery system in which decryption keys are themselves encrypted and decrypted.

There is a very important general difference between the present invention and the system disclosed in Downs, et al. This difference is that the present invention is specifically directed to charging for digital data, while Downs, et al. is not.

With respect to this issue, in the Office Action, the Examiner specifically cited column 3, lines 40-56 of Downs, et al. as disclosing charging for the use of the recognized object data. Applicants respectfully submit that this section of Downs, et al, does not address charging for the digital data.

Instead, this section of Downs, et al, which is the summary of the invention, discloses a method and apparatus of securely providing data. In particular, this section of Downs, et al. discusses a procedure for encrypting, decrypting and re-encrypting a data decrypting key. There is no disclosure in this section of any procedure for charging for the digital data.

Downs, et al. does briefly refer to payment in column 8, line 11. There, it is simply noted that a transaction record can be reported to facilitate payment, among other matters.

Thus, applicants respectfully submit that Downs, et al. does not, in fact, provide the disclosure for which it was cited, and that, as mentioned above, Downs, et al. is not specifically directed to charging for digital data.

This general difference between Downs, et al. and the present invention is reflected in a number of more specific differences. For instance, Downs, et al. does not disclose or suggest dynamically charging for the use of the object data - that is, calculating the charges at the time of use based on a number of factors, and, at that time, using data read out from a charge recording medium. Also, Downs, et al. does not disclose this charge recording medium used in the present invention. This recording medium includes both (i) recognition data, which identifies the object data within the generated contents, and (ii) charging data for charging for that object data.

The use of this recording medium is of utility for several reasons. For instance, the recording medium may be a single chip, circuit or card used by a person at the time that the object data is used. With this arrangement, it is not necessary - as it does appear to be with the procedure of Downs, et al - to electronically transmit information to a remote site to determine payment. With the present invention, payment can be made at the place and time of the use of the object data.

Independent Claims 1, 2, 3, 10 and 13 clearly describe aspects of this feature of the invention. Specifically, each of these claims sets forth a charge recording medium recording, or for recording, charging data used for charging for object data contained in content, and recognition data for identifying the object data when in the generated content. Each of Claims 1, 2, 3, 10 and 13 also includes limitations that this charging data is used for charging for the use of the recognized object data.

The above-discussed feature of this invention is important because, among other reasons, it allows the charge to be determined at the time the object data is used, and allows the charge to vary depending, for example, on that time of use.

The other references of record have been reviewed, and these other reference whether they are considered individually or in combination also fail to disclose or suggest this feature of the invention.

In light of the above-discussed differences between the prior art and Claims 1, 2, 3, 10 and 13, and because of the advantages associated with these differences, it cannot be said that any of these claims are anticipated by or rendered obvious by the prior art. Thus, Claims 1, 2, 3, 10 and 13 patentably distinguish over the prior art and are allowable. Claims 20 and 21 are dependent from, and are allowable with, Claim 1, and Claims 4-8 are dependent from Claim 3 and are allowable therewith. Similarly, Claims 11, 12, 22 and 23 are dependent from Claim 10 and are allowable therewith; and Claims 14-16 are dependent from, and are allowable with, Claim 13. Accordingly, the Examiner is respectfully asked to reconsider and to withdraw the rejection of Claims 1-8, 10-16, 20-23 under 35 U.S.C. §102, and to allow these claims.

Also, Applicants note that the changes requested herein to Claims 1, 2, 3, 10 and 13 are being made only to better define the subject matters of these claims. Accordingly, entry of this Amendment is appropriate, and such entry is respectfully requested.

Every effort has been made to place this application in condition for allowance, a notice of which is requested. If the Examiner believes that a telephone conference with Applicants' Attorneys would be advantageous to the disposition of this case, the Examiner is asked to telephone the undersigned.

Respectfully Submitted,

John S. Sensny

John S. Sensny
Registration No.: 28,757
Attorney for Applicants

Scully, Scott, Murphy & Presser
400 Garden City Plaza
Garden City, New York 11530
(516)742-4343

JSS:jy